CIVIL WRIT JURISDICTION CASE No.2739 OF 1991

In the matter of an application under Articles 226 and 227 of the Constitution of Indian

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1. PARAS MANAI DEVI w/o LATE HARI BOL YADAV
2. RAJ KUMAR YADAV S/O LATE HARI BOL YADAV
3. RANJEET PRASAD YADAV S/O LAT HARI BOL YADAV, ALL R/O DANDKHORA PS. DANDKHORA DISTT- KATIHAR------ PETITIONERS

Versus

1. THE STATE OF BIHAR
2. JOINT DIRECTOR, COSOLIDATION, PURNIA
3. DEPUTY DIRECTOR, CONSOLIDATION, KATIHAR
4. (a) MANOJ KUMAR YADAV
(b) PRAMOD KUMAR YADAV
(c) ASHOK KUMAR YADAV
(d) REKHA KUMARI
(e) RINA KUMARI
(f) RITA DEVI
(g) MEENA DEVI S/O AND D/O OF BALESHWAR YADAV, R/O DANDKHORA PS. DANDKHORA DISTT- KATIHAR---RESPONDENTS

For The Petitioners : Mr. P.K.SINHA, Advocate
For The Respondent No.4: Mr. Naresh Kr. Malhotra,Advocate
For the State: Mr. S.C 8.

P R E S E N T
THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI
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A.K.Tripathi,J Petitioners want quashing of the order dated 27.12.1988 which is order in appeal setting aside the initial order passed by the Consolidation Officer contained in annexure-3. He further wants even the revisional order contained in annexure-5 dated 8.3.1991 to be set aside which has affirmed the appellate order.

Submission of learned counsel for the petitioners is that there was no necessity for seeking any permission or exemption in matters of transfer of land by way of gift deed in the year 1985 and the gift deed created right title and interest in favour of petitioner nos. 2 and 3 and based on the same the Consolidation

Officer rightly allowed entry of the names in the record but the appellate authority and the revisional authority have set aside the order on erroneous ground.

Within the scheme of the Consolidation Act after the notification issued under section 3 and the bar created under section 5, whether the transfer is by way of a registered sale deed or a gift deed the same is hit if no prior permission is obtained from the consolidation authority. There is categorically finding both by the appellate authority as well as the revisional authority that the consolidation proceeding was on and there was a requirement to obtain permission. Failure to do so would have the consequence.

This court is of the opinion that both the appellate authority as well as the revisional authority have rightly interfered with the order passed by the Consolidation Officer as it is a cryptic order and does not disclose the vital materials and facts.

This writ application has no merit and it is dismissed.

(Ajay Kumar Tripathi,J.)

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Patna High Court, Patna
Dated the 16th December, 2008
NAFR (RPS)